

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARCHIA L MOTSCH
Claimant

APPEAL NO. 12A-UI-02931-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCGRAW-HILL INC
Employer

OC: 02/05/12
Claimant: Appellant (2)

Iowa Code § 96.5(5) – Severance Pay

STATEMENT OF THE CASE:

The claimant filed a timely appeal from an unemployment insurance decision dated March 20, 2011 (reference 02) that denied unemployment insurance benefits for the four weeks ending March 24, 2012 upon a finding that the claimant was entitled to receive severance pay for the weeks in question. Claimant participated. Employer opted not to participate according to a letter from the employer's representative dated April 4, 2012.

ISSUE:

Did the claimant receive deductible severance pay?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Upon separation from employment with McGraw-Hill, the claimant received money in consideration for a promise not to sue the employer over the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant has received deductible severance pay. She has not.

The evidence in this record establishes that the claimant received money in consideration for her binding promise not to sue the employer over the separation from employment. This contractual payment is not traditional severance pay provided as a gift by an employer to a departing employee. The contractual payment should not be deducted from unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated March 20, 2012 (reference 02) is reversed. The claimant is entitled to receive unemployment insurance benefits for the four weeks ending March 24, 2012, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css